

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TBS Group, LLC,)	
)	
Plaintiffs,)	
)	
v.)	<u>Jury Trial Demanded</u>
)	
City of Zion, Illinois, a Municipal Corporation,)	
)	
Defendant.)	

COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

Plaintiff, TBS Group, LLC (Owner), owns several properties in Zion, Illinois. Zion on or about July 7, 2015, adopted an ordinance, 15-O-33, to establish rental housing and inspection regulations. The ordinance requires Owner to pay a fee, obtain a rental certificate, and open rental homes to inspection before homes can be legally rented. Those who resist access will be subject to an administrative subpoena. Fines of up to \$10,000.00 per year are imposed for those not in compliance. This ordinance violates the Fair Housing Act, 42 U.S.C. 3601 *et seq.* by targeting African-American and Latino renters, who comprise a large percentage of all renters in Zion and an even larger amount of those who rent the housing, considered sub-standard, that is the target of this ordinance. It impermissibly targets these renters based on race and national origin. The ordinance further has a disparate impact on African-American and Latino renters.

INTRODUCTION

1. Defendant City of Zion, Illinois (Defendant) and its agents seek to impose costs upon landlords, including Owner, the Plaintiff herein, in renting housing to predominantly African-American and Latino tenants.

2. Owner does not have the financial means to comply with the ordinance. The criteria for the inspections is not defined, giving Defendant latitude in deciding which properties “pass” and which do not. Defendant has, effectively, condemned Owner’s property by subjecting Owner to a fee it cannot pay and mandating the properties live up to vague terms that can be applied in a discriminatory manner, particularly to deem properties occupied by African-American and Latino tenants unrentable.

PARTIES, JURISDICTION AND VENUE

3. Defendant City of Zion, Illinois is a municipal corporation located in Lake County, Illinois. The Village is governed by a Mayor and four Commissioners. Three of the five, including the Mayor, are white.

4. At all relevant times, Defendant perpetrated its conduct individually and by and through its agents, over whom Defendant exerted operational control concerning the facts at bar.

5. All of the facts set forth in this Complaint took place in the County of Lake and State of Illinois.

6. Plaintiff TBS Group, LLC is an Illinois limited liability company located in Round Lake Beach, Illinois. It owns and rents buildings in the City of Zion, Illinois. Its properties are subject to the ordinance complained of herein.

7. The subject properties are located in the City of Zion, County of Lake, State of Illinois.

8. This matter involves a Federal statute, the Fair Housing Act This is an action for violation of 42 U.S.C. §3601 *et seq.* (Fair Housing Act). This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question).

9. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. §1391 because Defendant is a municipal corporation subject to personal jurisdiction this district.

SUBSTANTIVE ALLEGATIONS

10. Defendant lists demographics of its population at 31 percent African-American and 27 percent Latino. <http://www.cityofzion.com/economic-development/demographics/> (last accessed 5/16/2016). An accompanying column posted by Defendant shows that Defendant sees its percentage of these populations as being higher than surrounding Lake County. *Id.* The population is categorized as 48.9 percent White. *Id.* Renters in Zion are 39.3 percent African-American and 14.9 Latino. http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?_afpt=table (last accessed 5/16/2016). Only 39 percent of renters are non-Hispanic whites. *Id.* Defendant sees the percentage of housing units that are rentals as around 60 percent, where a “healthy” percentage is 20 – 30 percent. (Defendant’s Mayor Al Hill in video linked from Defendant website purporting to be 10/2015 meeting, https://www.youtube.com/watch?v=Hk8f_3NKN9g, last accessed 5/16/2016). It has 3.5 percent of the population and 38 percent of the “low-income” housing of Lake County. *Id.* Now, renters and landlords will have to have certification before Section 8 benefits are renewed. *Id.*

11. In the above video, a resident referred disparagingly to “Section 8” and “these people,” words understood to be proxies for race and national origin. Officials answering back highlighted the disproportionate number of “Section 8” vouchers in Zion. https://www.youtube.com/watch?v=Hk8f_3NKN9g, last accessed 5/16/2016.

12. Defendant maintains a “comprehensive plan.” It was adopted in or about December 2015. The future contemplated by the comprehensive plan includes multiple-family housing (rental) relegated almost exclusively to a south-eastern area next to industrial uses and remote

from green space.

http://www.cityofzion.com/departments/economic_development/2016_final_zion_comp_plan.pdf, p. 112 (last accessed 5/16/2016).

13. In the past, Defendant officials have stated to Plaintiffs that they do not want more rental units that will (in the officials' opinions) bring African-Americans to Zion.

14. Registration and inspection fees are \$100.00 or more each. Violations can accrue a fine of \$750.00 per day the alleged violation exists and up to \$10,000 per year. Zion Municipal Code, 10-180. http://www.cityofzion.com/wp-content/uploads/2016/01/section_10-180_ord.pdf (last accessed 5/16/2016).

15. Plaintiffs received notices that they must pay or face increased fines. **Exhibit A.**

16. Almost all of Plaintiffs' tenants are Latino or African-American.

17. On information and belief, the code is enforced selectively against landlords who have African-American and Latino tenants. Alternatively, it has a disparate impact on them.

CAUSE OF ACTION: VIOLATION OF THE FAIR HOUSING ACT

18. Defendant's enforcement of its code as described above has made housing unavailable because of national origin, race, or color and also constitutes discrimination in terms, conditions, or privileges of sale or rental of dwellings or in the provision of services because of national origin, race, or color in violation of Section 804(a) and Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(a) and 42 U.S.C. § 3604(b).

19. Defendant's adoption and implementation of the Comprehensive Plan will make housing unavailable because of national origin, race, or color in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a), namely by locating multi-family rental housing in less-desirable industrial areas far from desirable green space.

20. The conduct of Defendant, through its officials, described above, constitutes a violation of the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*

21. There are persons who have been injured by defendant's discriminatory actions as described above and are aggrieved persons as defined in 42 U.S.C. § 3602(i). These persons have suffered damages as a result of Defendant's discriminatory conduct; namely, they have been assessed fines.

22. Defendant's conduct has been intentional, willful, and taken in disregard of the rights of African-American and Latino residents of the City of Zion, particularly Owner and its tenants.

23. Owner has been further damaged by Defendant's conduct because the conduct interferes with her ability to assist others to take advantage of their right to fair housing by renting homes to Latinos and African-Americans. Defendant's rights are protected from interference by the Fair Housing Act, including 42 U.S.C. § 3617.

REQUEST FOR DECLARATORY RELIEF

24. Owner, on the one hand, and Defendant, on the other hand, have adverse legal interests, and there is a substantial controversy between the parties that the Court can resolve by declaring the parties' respective rights.

25. Owner has an interest in and a right to remain an owner of homes and to rent homes out to willing tenants without interference.

26. Owner is entitled to a declaration, *inter alia*, that that Defendant cannot enforce a Code designed to deprive Owner of its rights in their property and to discourage it from renting to African-American and Latino tenants.

27. Inasmuch as fees and finds have been or will be charged against Owner due to the wrongful and discriminatory conduct of Defendant, Owner seeks a declaration that such fees and fines are unlawful and an order providing for a refund or credit of such charges, including associated interest, financial charges and damages, court costs and attorney fees, and an appropriate accounting thereof.

28. Owner seeks corresponding injunctive relief, including a Court order that Defendant is restrained from bringing any administrative or other action.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all claims and issues which have a right for a jury to render judgment.

WHEREFORE, Owner, the Plaintiff herein, TBS Group, LLC, prays the Court enter an ORDER that:

1. Declares that the actions of the Defendant described herein constitute violations of the Fair Housing Act;
2. Enjoins the defendant, its officials, agents, and employees, and all other persons in active concert or participation with it, from continuing to discriminate on the basis of national origin, race, or color in violation of 42 U.S.C. §§ 3601 et seq.;
3. Requires such actions by the Defendant as may be necessary to restore all persons aggrieved by Defendant's discriminatory housing practices to the position they would have occupied but for the Defendant's discriminatory conduct;
4. Issues a Temporary Restraining Order restraining Defendant from further prosecuting ordinance violations or administrative remedies against Owner;

5. Awards monetary damages to each person aggrieved by Defendant's discriminatory housing practices pursuant for actual, compensatory, emotional, pain and suffering, and attorney's fees and costs of bringing this action.

6. For such other relief as justice may require.

Respectfully submitted,

TBS GROUP, LLC

/s/Kelli Dudley

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